

(b) Any person possessing information or evidence concerning possible grounds for discipline of a practitioner may report the information or evidence to the OED Director. The OED Director may request that the report be presented in the form of an affidavit or declaration.

(c) Information or evidence coming from any source which presents or alleges facts suggesting possible grounds for discipline of a practitioner will be deemed a grievance.

(d) *Preliminary screening of information or evidence.* The OED Director shall examine all information or evidence concerning possible grounds for discipline of a practitioner.

(e) *Notification of investigation.* The OED Director shall notify the practitioner in writing of the initiation of an investigation into whether a practitioner has engaged in conduct constituting possible grounds for discipline.

(f) *Request for information and evidence by OED Director.*

(1) In the course of the investigation, the OED Director may request information and evidence regarding possible grounds for discipline of a practitioner from:

- (i) The grievant,
- (ii) The practitioner, or
- (iii) Any person who may reasonably be expected to provide information and evidence needed in connection with the grievance or investigation.

(2) The OED Director may request information and evidence regarding possible grounds for discipline of a practitioner from a non-grieving client either after obtaining the consent of the practitioner or upon a finding by a Contact Member of the Committee on Discipline, appointed in accordance with § 11.23(d), that good cause exists to believe that the possible ground for discipline alleged has occurred with respect to non-grieving clients. Neither a request for, nor disclosure of, such information shall constitute a violation of any of the Mandatory Disciplinary Rules identified in § 10.20(b) of this subchapter.

(g) Where the OED Director makes a request under paragraph (f)(2) of this section to a Contact Member of the Committee on Discipline, such Contact Member shall not, with respect to the

practitioner connected to the OED Director's request, participate in the Committee on Discipline panel that renders a probable cause determination under paragraph (b)(1) of this section concerning such practitioner, and that forwards the probable cause finding and recommendation to the OED Director under paragraph (b)(2) of this section.

(h) *Disposition of investigation.* Upon the conclusion of an investigation, the OED Director may:

(1) Close the investigation without issuing a warning, or taking disciplinary action;

(2) Issue a warning to the practitioner;

(3) Institute formal charges upon the approval of the Committee on Discipline; or

(4) Enter into a settlement agreement with the practitioner and submit the same for approval of the USPTO Director.

(i) *Closing investigation without issuing a warning or taking disciplinary action.* The OED Director shall terminate an investigation and decline to refer a matter to the Committee on Discipline if the OED Director determines that:

(1) The information or evidence is unfounded;

(2) The information or evidence relates to matters not within the jurisdiction of the Office;

(3) As a matter of law, the conduct about which information or evidence has been obtained does not constitute grounds for discipline, even if the conduct may involve a legal dispute; or

(4) The available evidence is insufficient to conclude that there is probable cause to believe that grounds exist for discipline.

§ 11.23 Committee on Discipline.

(a) The USPTO Director shall appoint a Committee on Discipline. The Committee on Discipline shall consist of at least three employees of the Office. None of the Committee members shall report directly or indirectly to the OED Director or any employee designated by the USPTO Director to decide disciplinary matters. Each Committee member shall be a member in good standing of the bar of the highest

court of a State. The Committee members shall select a Chairperson from among themselves. Three Committee members will constitute a panel of the Committee.

(b) *Powers and duties of the Committee on Discipline.* The Committee shall have the power and duty to:

(1) Meet in panels at the request of the OED Director and, after reviewing evidence presented by the OED Director, by majority vote of the panel, determine whether there is probable cause to bring charges under § 11.32 against a practitioner; and

(2) Prepare and forward its own probable cause findings and recommendations to the OED Director.

(c) No discovery shall be authorized of, and no member of the Committee on Discipline shall be required to testify about deliberations of, the Committee on Discipline or of any panel.

(d) The Chairperson shall appoint the members of the panels and a Contact Member of the Committee on Discipline.

§ 11.24 Reciprocal discipline.

(a) *Notification of OED Director.* Within thirty days of being publicly censured, publicly reprimanded, subjected to probation, disbarred or suspended by another jurisdiction, or being disciplinarily disqualified from participating in or appearing before any Federal program or agency, a practitioner subject to the disciplinary jurisdiction of the Office shall notify the OED Director in writing of the same. A practitioner is deemed to be disbarred if he or she is disbarred, excluded on consent, or has resigned in lieu of a disciplinary proceeding. Upon receiving notification from any source or otherwise learning that a practitioner subject to the disciplinary jurisdiction of the Office has been so publicly censured, publicly reprimanded, subjected to probation, disbarred, suspended or disciplinarily disqualified, the OED Director shall obtain a certified copy of the record or order regarding the public censure, public reprimand, probation, disbarment, suspension or disciplinary disqualification and file the same with the USPTO Director. The OED Director shall, in addition, without Committee on Discipline author-

ization, file with the USPTO Director a complaint complying with § 11.34 against the practitioner predicated upon the public censure, public reprimand, probation, disbarment, suspension or disciplinary disqualification. The OED Director shall request the USPTO Director to issue a notice and order as set forth in paragraph (b) of this section.

(b) *Notification served on practitioner.* Upon receipt of a certified copy of the record or order regarding the practitioner being so publicly censured, publicly reprimanded, subjected to probation, disbarred, suspended or disciplinarily disqualified together with the complaint, the USPTO Director shall issue a notice directed to the practitioner in accordance with § 11.35 and to the OED Director containing:

(1) A copy of the record or order regarding the public censure, public reprimand, probation, disbarment, suspension or disciplinary disqualification;

(2) A copy of the complaint; and

(3) An order directing the practitioner to file a response with the USPTO Director and the OED Director, within forty days of the date of the notice establishing a genuine issue of material fact predicated upon the grounds set forth in paragraphs (d)(1)(i) through (d)(1)(iv) of this section that the imposition of the identical public censure, public reprimand, probation, disbarment, suspension or disciplinary disqualification would be unwarranted and the reasons for that claim.

(c) *Effect of stay in another jurisdiction.* In the event the public censure, public reprimand, probation, disbarment, suspension imposed by another jurisdiction or disciplinary disqualification imposed in the Federal program or agency has been stayed, any reciprocal discipline imposed by the USPTO may be deferred until the stay expires.

(d) *Hearing and discipline to be imposed.* (1) The USPTO Director shall hear the matter on the documentary record unless the USPTO Director determines that an oral hearing is necessary. After expiration of the forty days from the date of the notice pursuant to provisions of paragraph (b) of this section, the USPTO Director shall consider any timely filed response and